

Attorney Docket No.: 532/3X9b

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Zubok et al.

Group Art Unit: 3738

Application No.: 10/781,498

Examiner: Not Yet Assigned

Filed: February 18, 2004

For: INSTRUMENTATION AND METHODS FOR
USE IN IMPLANTING A CERVICAL DISC
REPLACEMENT DEVICE

MS: MISSING PARTS

Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**PETITION IN RESPONSE TO NOTICE OF OMITTED
ITEMS IN A NONPROVISIONAL APPLICATION**

Sir:

This is submitted in response to the Notice mailed May 12, 2004 (a copy of which is attached.) Applicants petition to accord a filing date of February 18, 2004 to the above-identified application. The facts in support of this petition are set forth herein. Also enclosed herewith is a check for \$130.00 to cover the petition fee under 37 C.F.R. § 1.17(h).

The instant application was filed on February 18, 2004. The attached drawing sheet containing FIGS. 4a-g was inadvertently omitted from the drawing sheets that were originally filed with the instant application. On May 4, 2004, Applicants filed a preliminary amendment requesting that the Examiner review and enter a drawing sheet containing FIGS. 4a-g.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: June 23, 2004

Signature: Ute H. Wojtkowski

Print Name: Ute H. Wojtkowski

06/28/2004 SZEWDIE1 00000022 10781498

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130.00 DP

Applicants submit that the instant application should be accorded the original filing date of February 18, 2004 despite that the drawing sheet containing FIGS. 4a-g was inadvertently omitted from the application papers as filed. The addition of the drawing sheet containing FIGS. 4a-g does not introduce new matter into the application. Indeed, the instant application is a continuing application of U.S. Patent Application No. 10/688,632 and incorporates that application by reference. As U.S. Patent Application No. 10/688,632 includes FIGS. 4a-g, Applicants are entitled to introduce a drawing sheet containing same in the instant application without adding new matter. Further, the specification of the instant application discusses FIGS. 4a-g in detail.

In view of the foregoing, the subject matter of FIGS. 4a-g was present in the instant application on the original filing date of February 18, 2004, despite that a hard copy of FIGS. 4a-g was inadvertently omitted on the date the application papers were filed.

Accordingly Applicants submit that the instant application should be accorded a filing date of February 18, 2004. Early and favorable action is earnestly solicited.

In the event there are any further fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

Dated: June 23, 2004

Respectfully submitted,

By 

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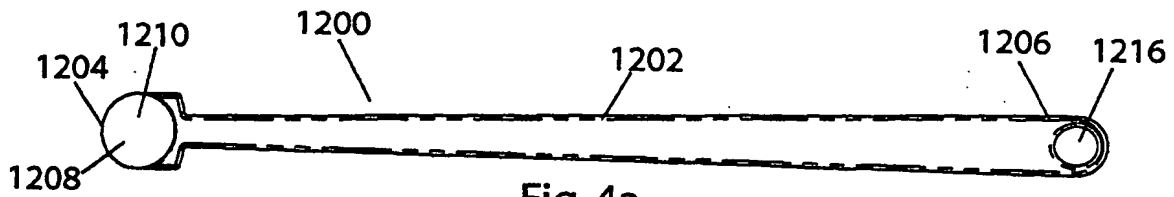


Fig. 4a

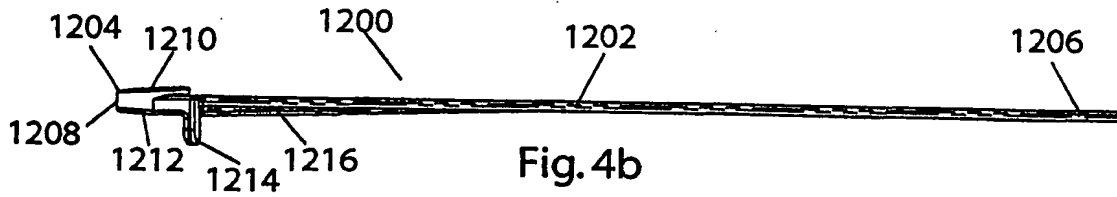


Fig. 4b

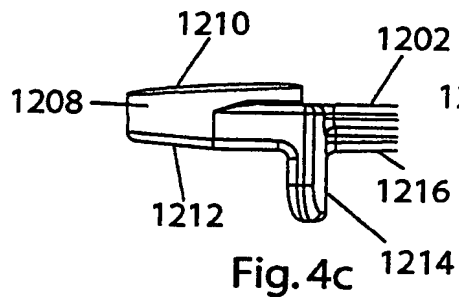


Fig. 4c

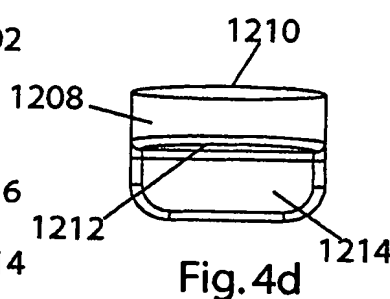


Fig. 4d

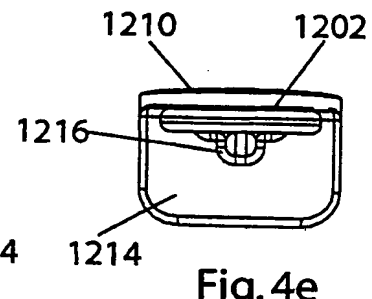


Fig. 4e

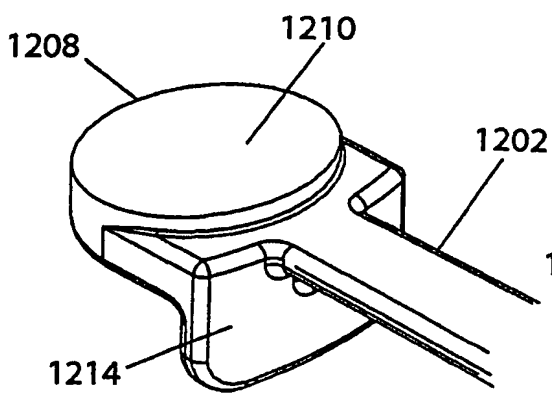


Fig. 4f

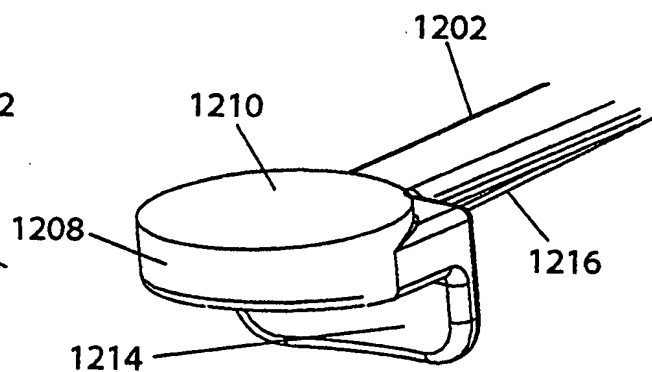


Fig. 4g